IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

WP(C).No. 26213 of 2007(U)

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PETITIONER:

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M/S.SOUTHERN RUBBER INDUSTRIES
CHITTILAPPILLY, THRISSUR
REPRESENTED BY ITS PARTNER
DIJESH V.B.

BY ADV. SMT.S.K.DEVI

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, III CIRCLE,
THRISSUR.

2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, ERNAKULAM.

3. THE DEPUTY TAHSILDAR (RR),
THRISSUR - 20.

BY ADV. SHRI.SREEKRISHNA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**C.N.RAMACHANDRAN NAIR, J.**

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**WP(C) No. 26213 of 2007**

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**Dated, this the 6th day of September, 2007**

**J U D G M E N T**

Petitioner is served with exparte sales tax assessment orders under the KGST and CST for the assessment years 2002-03 to 2004-05. According to the petitioner, petitioner was seriously sick and that is the reason for non-production of books of accounts and for failure to file reply to the notices. The appeals stated to be filed are defective. Even though petitioner can raise all the contentions before the appellate authority, I feel having regard to the case of the serious sickness of the petitioner, one opportunity can be given to the petitioner for settling the dispute, but on condition of payment of atleast some portion of the demanded tax.

2. In the circumstances, petitioner is directed to pay an amount of rupees two lakhs within one month from now. If payment is made as above before the Assessing Officer, the Assessing Officer will give an opportunity to the petitioner to produce books of accounts and in that event, books of accounts will be verified and assessment will be completed afresh, within a period of six weeks thereafter. Fresh demand notice will be issued based

on the revised assessment after verification of books of accounts. The payment made will be credited equally against the demand of all assessments including the revised assessment. If petitioner does not make payment within one month, then 3rd respondent will proceed for recovery with freedom to petitioner to move stay petition before the appellate authority. The appellate authority will consider stay application on merits and issue orders. Appeals will be disposed of in the usual course. RR proceedings will be kept in abeyance for one month from now and if rupees two lakhs is paid, recovery proceedings will be kept in abeyance for two months thereafter and thereafter recovery will be based on revised orders and notice of demand issued by the assessing authority as above.

**(C.N.RAMACHANDRAN NAIR, JUDGE)**

jg